302P

Public Testimony on SB 302

AN ACT CONCERNING STATE FUNDING OF AFFORDABLE HOUSING LOCATED IN A FIVE-HUNDRED-YEAR FLOOD PLAIN.

PLANNING AND DEVELOPMENT COMMITTEE

FRIDAY, MARCH 5, 2010

Good Afternoon.

My name is Andrew Daniels. I am an affordable housing development consultant with an interest in public policy.

I am here today in support of SB 302.

At the current time, a project, in this case a housing project is ineligible for any funding administered by a state agency unless that state agency requests and is granted a permit by Connecticut Department of Environmental Protection (DEP) pursuant to the Connecticut General Statutes codified at 25-68d. This includes even federal funding that is administered by a state agency. Federal funding programs do not as a matter of statute, regulation or guidance generally prohibit funding within a 500 year flood plain. This added requirement is unique to Connecticut. I have not been able to identify another state in which such a barrier to the use of federal funds is imposed.

In the case of a competitive application or grant process for affordable housing, the impact of the current statutory framework means that a project in a 500 year flood plain cannot be considered for funding. Such project cannot be considered "ready to proceed" in advance of the DEP permit.

Readiness to proceed is a critical evaluation factor in the Consolidated Application process designed by the Connecticut Housing Finance Authority (CHFA) and the Connecticut Department of Economic and Community Development (DECD) to access funding from the Low Income Housing Tax Credit (LIHTC) Program, the HOME Program, the CT Housing Tax Credit, the Next Steps Program and the CHFA ITA Mortgage Program et alia. In fact as part of the instructions in the first version of the Consolidated Application, DECD explicitly stated that any project proposed within a 500 year flood plain would not be considered for funding and required a legal opinion letter to that effect. The Consolidated Application is only in its second year of use and while it appears the explicit language has been removed, the issue remains and raises question as to how DECD will evaluate any application for a project within a 500 year flood plain. Passage of SB 302 would make the issue of a level competitive footing for application within and without of a 500 year flood plain moot.

It is important to note that CHFA, which is not a state agency within the meaning of CGS 25-68d, does not have this restriction. This is a good thing. If the restriction did apply, the CHFA single family mortgage program would not be able to lend to income qualified purchasers purchasing property within a 500 Year Flood Plain. Imagine what the impact would be if low interest home purchase loans were unavailable within a 500 year flood plain or if each mortgage required a DEP permit. Why should this barrier apply to multifamily affordable housing finance?

SB 302 is a bill which can achieve two major objectives:

1) **It removes a statutory and regulatory barrier to the preservation of existing affordable housing.** There are a large number of existing affordable units that can be found within the current FEMA designations of 500 year flood plain areas. Most of these units are federally funded units. This should be no surprise as federal housing program have never found the issue of a 500 year flood plain to be an issue of sufficient risk to prevent development of affordable housing.
2) **It promotes the redevelopment of existing infrastructure both to increase the supply of affordable housing and to mitigate the negative impact that existing infrastructure has on a flood plain.** Many of Connecticut's Cities and Towns were established along waterways or in relation to water supplies. This should be no surprise given the colonial era history of Connecticut's pattern of development.

The manner in which SB 302 achieves these goals is rather simple.

- The Bill establishes that existing affordable housing that is not located in a 100 year flood plain is eligible for funding. The definition of "existing affordable housing" are those units counted in the annual DECD census of units included on the DECD Housing Appeals List, that is those unit that count to meeting the 10% level which exempts a community from being subject to CGS 8-30g.
- It encourages through the development of affordable multifamily the mitigation of existing physical infrastructure that exacerbates the issue of flood control. In short by providing an ability to get direct approval from DEP of exceptions to CGS 25-68d it breaks the circle on needing to be ready to proceed to get a competitive funding award and needing to have been awarded state funding to have the funding agency support to get the DEP permit.
- It is only for affordable housing development that meets income targeting and primary residential uses that line up with the LIHTC Program and are consistent with other state and federal funding mechanisms including other forms of state and federal tax credit.
- Only when a project falls within the definitions applicable to adaptive re-use of existing infrastructure (e.g. rehab of a former commercial building along a river way into housing) or new construction that replaces obsolete and abandoned infrastructure, can a project benefit from the changes promoted in SB 302.
- Nothing in SB 302 promotes or allows the development of affordable housing in otherwise pristine open space within a 500 year flood plain.
- It put all cities and towns on a equal footing in terms of being able to access funding for affordable housing within already developed 500 year flood plain, which in Connecticut often means real estate with some relationship to water. Passage of SB 302 can help municipalities unlock value by permitting redevelopment in moribund commercial areas.
- The type of redevelopment that SB 302 can foster would in many cases be based on smart growth and sustainable development principles. Train lines in particular run along river ways and many existing downtown whether city or town have a "mill river" that may have developable land outside of a 100 year flood plain but not a 500 year flood plan that is within walking distance to a train station or close to recreation. Uncapping this kind of

value improves the Grand List. Perhaps in significant ways for small communities by helping to revive and repopulate central business districts or remove commercial blight through adaptive re-use or outright removal of deteriorated infrastructure.

There is another Bill SB 317 which has some parallel elements to SB 302. However, on a close review, SB 317 is narrower in its intent and narrower in its benefits. In short, SB 317 functions as a "grandfather" clause for properties that are now within a 500 year flood plain based on revisions to FEMA maps but were not at time of original construction located in a 500 year flood plain. SB 317 would strand known affordable housing properties, mostly federally financed, in communities such as Stamford (along the Mill River Corridor), Bridgeport (Marina Village), Meriden (Mills Apartments and the neighborhoods surrounding the "Hub", Ansonia (Riverside Apartments), and Glastonbury. SB 302 addresses preservation and smart growth redevelopment opportunities for affordable housing while SB 317 provides a narrow "fix" that maintains the substantial barrier issues that CGS 25-68d creates for a broader universe of impacted communities.

There are several ways by which SB could be improved or enhanced. These items speak to clarifications or "issues around the edges" of the Bill:

1) Add language that makes clear that the income targeting and portion of the project required being residential applies to the NEW PROJECT only. CGS 8-64a already speaks to a hearing process for redevelopment programs for existing affordable housing that may result in few units than baseline. SB 302 is about a new project that may or may not be part of larger replacement housing program. It is also about reduction of infrastructure within a 500 year flood plain achieved through redevelopment.
2) Consider an approach that can reduce the administrative burden on DEP by requiring DEP to issue design guidance or best practices information and letting the local municipal Commissions do the leg work on a site by site basis. There are already Inland or Coastal Waterway Commissions or their equivalent in most Connecticut communities. Do not create an administrative pipeline for which the State is not ready to staff and move requests on a fast track.

I thank the Committee for the opportunity to speak today. I once again ask for passage of SB 302.